

106TH CONGRESS  
1ST SESSION

# H. R. 2643

To amend the Native American Graves Protection and Repatriation Act to provide for appropriate study and repatriation of remains for which a cultural affiliation is not readily ascertainable.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 29, 1999

Mr. HASTINGS of Washington introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To amend the Native American Graves Protection and Repatriation Act to provide for appropriate study and repatriation of remains for which a cultural affiliation is not readily ascertainable.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. OWNERSHIP.**

4 (a) REPEAL OF OWNERSHIP BASED ON ABORIGINAL  
5 LANDS.—Paragraph (2) of section 3(a) of the Native  
6 American Graves Protection and Repatriation Act (25  
7 U.S.C. 3002(a)(2)) is amended—

1           (1) by inserting “or” at the end of subpara-  
2 graph (A);

3           (2) by striking “; or” at the end of subpara-  
4 graph (B) and inserting a period; and

5           (3) by striking subparagraph (C).

6       (b) INADVERTENT DISCOVERY.—Subsection (d) of  
7 section 3 of the Native American Graves Protection and  
8 Repatriation Act (25 U.S.C. 3002) is amended—

9           (1) in paragraph (1), by inserting “those” be-  
10 fore “Federal lands”; and

11          (2) in paragraph (2), by adding at the end the  
12 following new sentence: “Any person or entity that  
13 disposes of or controls a cultural item referred to in  
14 the preceding sentence shall comply with the applica-  
15 ble requirements of subsection (c).”.

16       (c) RECORDING AND STATUS OF ITEMS EXCAVATED  
17 OR DISCOVERED AFTER NOVEMBER 16, 1990.—Section  
18 3 of the Native American Graves Protection and Repatri-  
19 ation Act (25 U.S.C. 3002) is amended by adding at the  
20 end the following new subsection:

21       “(f) RECORDING AND STATUS OF ITEMS EXCAVATED  
22 OR DISCOVERED AFTER NOVEMBER 16, 1990.—Cultural  
23 items excavated or discovered on Federal lands after No-  
24 vember 16, 1990, except those items whose ownership or

1 control is established under paragraph (1) or paragraph  
 2 (2)(A) of subsection (a)—

3 “(1) shall be reasonably recorded according to  
 4 generally accepted scientific standards;

5 “(2) shall remain under the control of the agen-  
 6 cy having primary management authority for the  
 7 land on which the cultural item was excavated or  
 8 discovered until 90 days after the publication in the  
 9 Federal Register of a notice setting out a general  
 10 description of the item, its estimated age, and the  
 11 general area of discovery; and

12 “(3) are subject to the study provisions of sub-  
 13 section 7(b).”.

14 **SEC. 2. LIMITED AUTHORIZATION FOR STUDY.**

15 The last sentence of section 5(b)(2) of the Native  
 16 American Graves Protection and Repatriation Act (25  
 17 U.S.C. 3003(b)(2)) is amended by inserting “, except as  
 18 expressly set forth in sections 3(f) and 7(b),” after “mean,  
 19 and”.

20 **SEC. 3. STUDY AND RECORDING.**

21 Subsection (b) of section 7 of the Native American  
 22 Graves Protection and Repatriation Act (25 U.S.C. 3005)  
 23 is amended to read as follows:

24 “(b) STUDY AND RECORDING.—(1) In cases of  
 25 human remains and associated funerary objects for which

1 no lineal descendants have been identified and in cases of  
2 all other cultural items:

3           “(A) If the cultural affiliation of a cultural item  
4 has not been established, studies may be conducted  
5 in an attempt to establish such an affiliation or to  
6 obtain scientific, historical, or cultural information.  
7 If the cultural affiliation of a cultural item is deter-  
8 mined pursuant to this subparagraph, the Federal  
9 agency or museum having custody of the cultural  
10 item shall, not later than 90 days after such deter-  
11 mination, notify any culturally affiliated Indian tribe  
12 or Native Hawaiian organization of their affiliation.  
13 Such notice shall be given in the manner specified  
14 in paragraphs (2) and (3) of section 5(d).

15           “(B) If the cultural affiliation of a cultural item  
16 has been established with an Indian tribe or Native  
17 Hawaiian organization, studies of such item may be  
18 conducted if needed for the completion of a specific  
19 scientific study, the outcome of which is reasonably  
20 expected to provide significant new information con-  
21 cerning the history or prehistory of the United  
22 States. If the culturally affiliated tribe or organiza-  
23 tion requests the return of the cultural item, the  
24 Federal agency or museum shall return such item to  
25 the Indian tribe or Native Hawaiian organization

1 not later than 90 days after the date on which the  
2 scientific study is completed. Study of a cultural  
3 item under this subparagraph shall not be permitted  
4 to delay return of the item for more than 180 days  
5 after the item is made available for study, unless a  
6 longer period of study is agreed upon by the cul-  
7 turally affiliated tribe or organization that has re-  
8 quested return of the cultural item.

9 “(2) Not later than 180 days after a study conducted  
10 under this subsection is completed, the Federal agency or  
11 museum with custody of the cultural item shall provide  
12 a report of the results of the study to any Indian tribe  
13 or Native Hawaiian organization that has an established  
14 cultural affiliation with the cultural item studied.

15 “(3) If study of a cultural item pursuant to subpara-  
16 graph (A) or (B) of paragraph (1) is requested, the Fed-  
17 eral agency or museum with custody of such item shall  
18 make such item reasonably available for such study unless,  
19 not later than 90 days after the request for the study is  
20 made, the Secretary determines that the Federal agency  
21 or museum has reasonably established that the potential  
22 scientific benefit of the requested study is outweighed  
23 under the circumstances by curatorial, cultural, or other  
24 reasonable considerations.

1       “(4) Nothing in this subsection shall be construed to  
2     require any museum to undertake or permit any study of  
3     a cultural item that is contrary to policies of the museum  
4     or to its prior agreements.”.

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